

## UNITED STATES DISTRICT COURT

Northern District of California

GMAC MORTGAGE LLC,

No. C 11-5475 MEJ

Plaintiff,

**ORDER TO SHOW CAUSE**

v.

MIGUEL LOPEZ,

Defendant.

On November 10, 2011, Defendant Miguel Lopez removed this unlawful detainer action from Solano County Superior Court. However, an unlawful detainer action does not arise under federal law but is purely a creature of California law. *Wells Fargo Bank v. Lapeen*, 2011 WL 2194117, at \*3 (N.D. Cal. June 6, 2011); *Wescom Credit Union v. Dudley*, 2010 WL 4916578, at \*2 (C.D. Cal. Nov. 22, 2010). Thus, it appears that jurisdiction is lacking and the case should be remanded to state court. Accordingly, the Court ORDERS Defendant Miguel Lopez to show cause why this case should not be remanded to the Solano County Superior Court. Defendant shall file a declaration by December 1, 2011, and the Court shall conduct a hearing on December 15, 2011 at 10:00 a.m. in Courtroom B, 15th Floor, 450 Golden Gate Avenue, San Francisco, California. In his declaration, Defendant must address how this Court has jurisdiction over Plaintiff's unlawful detainer claim. Defendant should be mindful that an anticipated federal defense is not sufficient to confer jurisdiction. *Franchise Tax Bd. of California v. Construction Laborers Vacation Trust*, 463 U.S. 1, 10 (1983).

**IT IS SO ORDERED.**

Dated: November 17, 2011

  
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Maria-Elena James  
Chief United States Magistrate Judge

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

GMAC MORTGAGE LLC,

Plaintiff,

v.

MIGUEL LOPEZ et al,

Defendant.

Case Number: CV11-05475 MEJ

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 17, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Miguel Lopez  
1900 Dailey Court  
Dixon, CA 95620

Dated: November 17, 2011

Richard W. Wieking, Clerk  
By: Brenda Tolbert, Deputy Clerk